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Procedure

Louisiana Governor Presents Tax Plan, Proposes One-Cent Sales Tax Increase

With current deficits totaling about \$300 million and future deficits totaling more than \$1 billion in the coming fiscal year, Louisiana Gov. John Bel Edwards (D) outlined suggestions to bridge the gap, including increasing the sales tax by a penny.

Other proposals include repealing the business utilities sales tax exemption and suspending refundable ad valorem tax credits for business inventory, offshore vessels and public service properties.

Edwards outlined revenue-raising measures during a Jan. 19 news conference, but also suggested non-revenue measures such as tapping the state's rainy day fund, redirecting the first-year payment of the BP settlement that isn't earmarked for coastal redevelopment and cutting 10 percent of discretionary funds that aren't constitutionally protected.

"This is not the budget plan I want to bring in my second week in office, but these problems are bigger than our state has ever seen," Edwards said in a Jan. 19 statement.

"The challenge before us is one we must address collaboratively and comprehensively in order for our state to prosper again. The sharp drop in oil prices, while significant, only contributes to a fraction of the problem our state faces," he said. "What I offer is a responsible plan to stabilize our state's budget shortfall and minimize severe cuts in the next three months that would deeply hurt our citizens, hospitals, public schools and universities."

In the current fiscal year, ending June 30, Louisiana faces a general fund shortfall of at least \$227 million as well as a gap of more than \$1 billion, potentially up to \$3 billion, between revenue and projected expenses in the 2017 fiscal year budget, a report by the governor's transition committee on fiscal matters said.

The governor's plan includes a one-cent increase in the state sales tax, called the "clean penny" sales tax. It would add one cent to the existing four-cent state sales tax but wouldn't provide any exemptions to who pays the additional one-cent tax, except for constitutional exemptions for groceries, prescription drugs and residential utilities.

Burden on Business. This could make paying sales tax in Louisiana for businesses even more complicated, Bill Backstrom, a partner at Jones Walker LLP who leads the firm's tax and estates practice group, told

Bloomberg BNA. If the clean penny sales tax passes, a business could be exempt from paying local and state sales tax, except for the 1 percent clean penny sales tax.

For example, purchases of materials and supplies for vessels operating in interstate and foreign commerce are currently exempt from paying local and state sales tax under La. Stat. Ann. Section 47:305.1, Backstrom said. Under the governor's plan, those purchases could still be subject to the one-cent tax.

"If this clean penny passes, the local and state tax would still be exempt, but they'd have to pay the one percent tax, an additional burden," Backstrom said. "That's just one example—I could list at least a dozen others."

Other parts of the governor's plan to raise revenue in the short term include repealing the business utilities sales tax exemption; suspending refundable ad valorem tax credits for business inventory, offshore vessels and public service properties; and suspending net operating loss deductions for corporate income tax.

"In the short term, it seems like the burden will be on the business community," Backstrom said.

Long-Term Solutions. The governor's plan also addresses structural changes to the state's tax system, which he calls long-term solutions. His plan would cut income and corporate taxes across the board in exchange for eliminating the ability for both groups to deduct federal income tax. It would also enact add-back provisions for corporate income tax and a flat tax for corporations.

The flat tax and cuts in income tax in exchange for federal income tax deduction elimination are based on a proposal by the Transition Committee on Fiscal Matters. The group, a consortium of representatives of taxpayers, taxing authorities and academics, was appointed by Edwards to find solutions to the state's current and future projected deficits.

The budget deficits are expected to widen as energy prices continue to fall, putting downward pressure on state collections, the report said. The group said that short-term solutions such as budget cuts, consolidations, eliminations and privatizations had already been used during the past seven years. These methods have diminished "the viability of these measures for dealing with the magnitude of the projected shortfalls outlined in this report."

The report emphasized changes in the tax system that would make tax collection more efficient, which would broaden the tax base. Streamlining the tax collection system would also bring Louisiana's system into compliance if federal legislation on taxing Internet sales becomes law.

Voters Will Decide. The changes Edwards proposed aren't a done deal, Backstrom said. The changes would have to be approved by the Legislature, in some cases by a two-thirds vote.

Changes such as a lower tax bracket in exchange for giving up deductions would have to be approved by voters, which might pose a challenge. Simplifying the tax code by eliminating federal income tax deductions while lowering the tax rate across the board is considered good tax policy by tax policy groups and economists, Backstrom explained, but it might be harder to convince Louisiana voters to vote in favor of giving up a tax deduction.

"Lawmakers will have to clearly explain these changes to voters and how it will affect them if they want these to pass," Backstrom said.

Legislative Special Session. Edwards plans to call a three-week special session of the Legislature Feb. 15 to address the fiscal problem. With the current fiscal year ending June 30, there is a time crunch to make changes to the law and enact them so the state can raise funds in time.

"Business needs to be gearing up for the legislative session," Backstrom said. "It looks like the short-term fixes are going to fall on the backs of businesses for the most part, and that's in an environment when businesses in Louisiana, especially in the energy sector, are already suffering."

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□ *Text of Edwards' statement is at <http://gov.louisiana.gov/news/gov-edwards-announces-initial-solutions-to-fy16-and-fy17-budget-shortfalls>.*

Edwards' plan is at <http://gov.louisiana.gov/assets/docs/Issues/State-Budget/LABudget-Options.pdf>.

The transition committee's proposal is at http://gov.louisiana.gov/assets/docs/TransitionTeam/Final-Report_Committee-on-Fiscal-Matters.pdf.

*For additional discussion of sales tax rates in Louisiana, see *Sales and Use Tax Navigator*, at Louisiana 3.*